

Trenton H. Norris (California State Bar No. 164781)
 Sarah Esmaili (California State Bar No. 206053)
 ARNOLD & PORTER LLP
 90 New Montgomery Street, Suite 600
 San Francisco, CA 94105
 Telephone: (415) 356-3000
 Facsimile: (415) 356-3099
 Email: trent.norris@aporter.com
 Email: sarah.esmaili@aporter.com
 Email: rhonda.stewart@aporter.com

Peter L. Zimroth (*pro hac vice* admission pending)
 Kent A. Yalowitz (*pro hac vice* admission pending)
 Nancy G. Milburn (*pro hac vice* admission pending)
 ARNOLD & PORTER LLP
 399 Park Avenue
 New York, NY 10022
 Telephone: (212) 715-1000
 Facsimile: (212) 715-1399
 Email: peter.zimroth@aporter.com
 Email: kent.yalowitz@aporter.com
 Email: nancy.milburn@aporter.com

Attorneys for Plaintiff
 CALIFORNIA RESTAURANT ASSOCIATION

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA**

C-08-3247 CW

CALIFORNIA RESTAURANT
 ASSOCIATION,

Plaintiff,

v.

THE CITY AND COUNTY OF SAN
 FRANCISCO and THE SAN FRANCISCO
 DEPARTMENT OF PUBLIC HEALTH,

Defendants.

Case No. _____

**STIPULATION AND ORDER
 REGARDING BRIEFING SCHEDULE
 FOR PLAINTIFF'S MOTION FOR
 DECLARATORY RELIEF AND
 PRELIMINARY INJUNCTION AND
 REGARDING STAY OF EFFECTIVE
 DATE**

(Civil Local Rule 7.11)

STIPULATION

WHEREAS, Plaintiff California Restaurant Association filed a Complaint against the City and County of San Francisco and the San Francisco Department of Public Health (collectively, “Defendants”) alleging that Ordinance 40-08 (“Ordinance”) violates the U.S. and California Constitutions;

WHEREAS, the Ordinance amends the San Francisco Health Code §§ 468-468.8 to require restaurants with twenty or more establishments in the State of California to make statements showing certain nutritional information on menu boards and menus in manner prescribed by the Ordinance;

WHEREAS, Plaintiff alleges that the Ordinance is preempted under federal and state law and that the Ordinance unconstitutionally compels speech by the restaurants subject to the Ordinance;

WHEREAS, Plaintiff has brought a Motion for Declaratory Relief and a Preliminary Injunction (“Motion”) in this action to enjoin the San Francisco Department of Public Health from enforcing the Ordinance;

WHEREAS, certain nutritional disclosure requirements begin to take effect under the Ordinance on August 23, 2008 (“Disclosure Requirements”);

WHEREAS, a proposed amendment to the Ordinance is pending that would, among other things, postpone the effective date of these Disclosure Requirements to September 22, 2008;

WHEREAS, in light of the proposed amendment to the Ordinance, Defendant San Francisco Department of Public Health has stated that it will not enforce these Disclosure Requirements until September 22, 2008;

WHEREAS, Plaintiff estimates that it will take approximately six weeks for restaurants to design, manufacture, ship and install menus and menu boards in compliance with the Ordinance;

WHEREAS, in the event that the Motion is denied, Plaintiff and Defendants believe that it is appropriate for Defendants to stay enforcement of the Disclosure Requirements for an additional month, such that enforcement would begin on October 22, 2008, unless further amended; and

1 WHEREAS, Plaintiff and Defendants agree that such a stay of the enforcement of the
2 Disclosure Requirements shall not prejudice Plaintiff's right to seek an enlargement of a stay; and

3 WHEREAS, in light of the complexity of the constitutional issues raised in the action,
4 Plaintiff and Defendants believe that it is appropriate, subject to Court approval, to provide an
5 extended briefing schedule for the parties such that Plaintiff's Motion would be noticed at least 63
6 days before the hearing date, Defendants' opposition papers would be due no less than 35 days
7 before the hearing date, and Plaintiff's reply to the opposition papers would be due no less than 14
8 days before the hearing date;

9 IT IS HEREBY STIPULATED AND AGREED, by and among Plaintiff and Defendants,
10 subject to approval of the Court, that:

11 1. Plaintiff's Motion shall be noticed for hearing on a date that is no less than 63 days
12 after the Motion is filed and served.

13 2. Defendants' opposition to the Motion shall be filed and served not less than 35 days
14 before the hearing date.

15 3. Plaintiff's reply to Defendants' Opposition to the Motion shall be filed and served
16 not less than 21 days before the hearing date.

17 4. Defendants' enforcement of the Ordinance shall be stayed until October 22, 2008
18 without prejudice as to Plaintiff's right to seek a further stay

19 **SO STIPULATED:**

20 Dated: July __, 2008

ARNOLD & PORTER LLP

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23 By: _____
24 Trenton H. Norris
25 Attorneys for Plaintiff
26 CALIFORNIA RESTAURANT
27 ASSOCIATION
28

1 Dated: July __, 2008

DENNIS J. HERRERA
City Attorney
FRANCESCA GESSNER
Deputy City Attorney

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5 By: _____
6 Francesca Gessner
7 Attorneys for Defendants
8 CITY AND COUNTY OF SAN
9 FRANCISCO AND
10 SAN FRANCISCO DEPARTMENT OF
11 PUBLIC HEALTH

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14 **PURSUANT TO THE STIPULATION, IT IS SO ORDERED:**

15 **7/15/08**

16 Dated: _____

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19 _____
20 UNITED STATES DISTRICT
21 COURT JUDGE

22 Dated: July __, 2008

ARNOLD & PORTER LLP

23 By: _____
24 Trenton H. Norris
25 Attorneys for Plaintiff
26 CALIFORNIA RESTAURANT
27 ASSOCIATION

1 Dated: July __, 2008

DENNIS J. HERRERA
City Attorney
FRANCESCA GESSNER
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